

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division of Water

(Amendment)

401 KAR 8:075. Consumer confidence reports and public notification.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.151-141.155, 42 U.S.C. 300f-300j-26[, ~~EO 2008-507, 2008-531~~]

STATUTORY AUTHORITY: KRS 224.10-100(28), 224.10-110, 40 C.F.R. 141.151-141.155, 141.201-141.211, Appendix A, Appendix B, Appendix C, 42 U.S.C. 300f-300j-26[, ~~EO 2008-507, 2008-531~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110(2) and (3) require the secretary of the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use.[~~EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.~~] This administrative regulation establishes the requirements for consumer confidence reports and notification of the public if a public water system violates a provision of this administrative regulation. This administrative regulation establishes requirements more stringent than[~~different from~~] the federal regulation for submitting consumer confidence reports and certifications to the cabinet in enforceable timeframes. The federal regulation requires a consumer confidence report[~~reports~~] to be certified within three (3)


1 months after it is mailed to the cabinet~~[at the same time the report is delivered to the customers,~~
2 ~~and the certification is required to be submitted to the cabinet within three (3) months]~~. This
3 administrative regulation requires that the report and certification be delivered to the cabinet by
4 July 1 of each year.

5 Section 1. Consumer Confidence Reports. (1) A community water system shall submit an
6 annual consumer confidence report to its customers and to the cabinet in accordance with 40
7 C.F.R. 141 Subpart O, 141.151, 141.152, 141.153, 141.155, including Appendix A, and 141.154,
8 except as established~~[provided]~~ in subsection (2) of this section.

9 (2) A copy of the annual report and certification required by 40 C.F.R. 141.155 shall be
10 delivered to the cabinet and the system's customers by July 1 each year.

11 Section 2. Public Notification. The owner or operator of a public water system shall give
12 public notice as established in 40 C.F.R. Subpart Q, 141.201 through 141.211, Appendix A,
13 Appendix B, and Appendix C.

401 KAR 8:075 Consumer confidence reports and public notification is approved for filing.



Charles G. Snaveley, Secretary
Energy and Environment Cabinet

4/12/2017

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2017. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person.

Contact person: Carole J. Catalfo
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Phone (502) 564-3410
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Email: water @ky.gov (Subject line: "Chapter 8 regulations")

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 8:075

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires public water systems to annually report to its customers information on the quality and nature of the water that the system is delivering to customers and the system's compliance with national primary drinking water regulations. This administrative regulation also requires public water systems to provide notice of a violation to the public in accordance with 40 C.F.R. 141.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to require public water systems to keep customers informed of issues related to the quality and nature of the water that customers are receiving, and to require notice to customers if the system violates drinking water standards. All states with delegated authority to implement and enforce the federal Safe Drinking Water Act must have compatible state regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use. 40 C.F.R. 141 requires public water systems to provide reports regarding the quality and nature of the water it is delivering to its consumers, and to provide public notice of drinking water standard violations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation requires public water systems to provide consumer reports regarding the quality and nature of the water it delivers to its consumers, and public notice when drinking water standards are violated.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment consolidates language from 401 KAR 8:070 which is being repealed. The amendment does not change the requirements of the existing regulations.

(b) The necessity of the amendment to this administrative regulation: The amendment consolidates language from 401 KAR 8:070 which is being repealed. The language must be maintained in regulation in order that public notice of drinking water violations will continue being issued in the manner required by the Safe Drinking Water Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100 and 224.10-110 authorize the cabinet to adopt and enforce administrative regulations for the purification of water for public and semipublic use. 40 C.F.R. 141 requires public water systems to provide reports regarding the water it is delivering to its consumers, and to provide public notice of drinking water standard violations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains language from 401 KAR 8:070 which is being repealed, in order that public notice of drinking water violations will continue being issued in the manner required by the Safe Drinking Water Act.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to 436 public water systems.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities will not be required to take any additional actions to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will not result in additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public water systems will have consistent regulations regarding consumer confidence reports and public notice of drinking water violations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This amendment will not result in further costs.

(b) On a continuing basis: This amendment will not result in further costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There will be no change in funding to implement or enforce this amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? (Explain why or why not) Yes. The requirements of this administrative regulation differ based on the number of persons served by a public water system.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 8:075

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation applies to 436 public water systems in Kentucky, which are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 40 C.F.R. 141, 42 U.S.C. 300f through 300j-26.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not generate any revenue.

(c) How much will it cost to administer this program for the first year? This amendment will not result in any additional costs.

(d) How much will it cost to administer this program for subsequent years? This amendment will not result in any additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This amendment will not result in any additional revenues or expenditures.

FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 8:075

Contact Person:

Carole J. Catalfo

Phone: (502) 782-6914

Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. 141 and 42 U.S.C. 300f through 300j-26

2. State compliance standards. KRS 224.10-100 and 224.10-110

3. Minimum or uniform standards contained in the federal mandate. The federal Safe Drinking Water Act and 40 C.F.R. 141 require public water systems to annually report to its customers information regarding the quality and nature of the water the system is delivering to the customer and the system's compliance with national primary drinking water regulations. 40 C.F.R. 141 also provides comprehensive requirements for public notification when drinking water standard violations occur.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? The regulation does not impose stricter requirements than the federal mandate regarding public notice of drinking water standard violations. Provisions related to the certification of consumer confidence reports to the cabinet are more stringent to ensure that reports are correctly distributed to a system's customers, and establishes the information regarding total organic compounds that must be included. 40 C.F.R. 141.155 requires consumer confidence reports to be certified within three (3) months after being mailed to the primacy agency. This administrative regulation requires that the report and certification be delivered to the cabinet by July 1 of each year. The requirements are clerical in nature and the cabinet considers the requirement that certification be received in the same time period to be reasonable.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The provisions related to the certification of consumer confidence reports to the cabinet are more stringent to ensure the reports are correctly distributed to the system's customers, and establishes the information regarding total organic compounds that must be included. This information was not addressed by the U.S. EPA in its regulation. These requirements are clerical in nature and do not impose a financial burden on the systems.